

## **EXHIBIT A**

O'Brien & von Rosenvinge, P.C.

Attorneys At Law  
27 Mica Lane, Suite 202  
Wellesley, MA 02481  
Telephone (781) 239-9988  
Facsimile (781) 239-3360

FAX TRANSMITTAL SHEET

TO: Rudolph V. De George, II, Esq.  
Samuel J. Rosentahl, Esq.  
COMPANY: Barish Law Offices, P.C.  
FAX #: 215-351-0593  
FROM: John J. O'Brien, Jr., Esq.  
  
RE: David Deitzel v. Springfield Terminal Railway Company and  
Guilford Rail Systems  
U. S. F. D. C. Civil Action No.03-12560-NMG

NUMBER OF PAGES (including cover sheet): Twelve (12)

DATE: 9/30/4 TIME: 6:50 p.m.

COMMENTS: Dear Atty. De George: Attached please find my letter dated September 30, 2004 and its attachments. Please call me as soon as possible.

Very truly yours, John J. O'Brien, Jr.

If the following information is not received in good condition, please call (781) 239-9988. The documents accompanying this telecopy transmission contain certain confidential or privileged information. The information is meant to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this telecopied information is PROHIBITED. If you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents. Thank You.  
FaxDeGeorgeGortonCase

TRANSMISSION VERIFICATION REPORT

TIME : 09/30/2004 18:50  
NAME : OBRIEN VONROSENVINGE  
FAX : 7812393360  
TEL : 7812399988

DATE, TIME	09/30 18:47
FAX NO. /NAME	12153510593
DURATION	00:02:55
PAGE(S)	12
RESULT	OK
MODE	STANDARD
	ECM

September 30, 2004

Rudolph V. De George, II , Esq.  
Barish Law Offices, P. C.  
1601 Cherry Street  
Three Parkway - 13<sup>th</sup> Floor  
Philadelphia, PA 19102

RE: David Deitzel v. Springfield Terminal Railway Company and Guilford Rail Systems  
U. S. F. D. C. Civil Action No.03-12560-RGS

Dear Attorney DeGeorge:

Today I received by fax, from my client, two (2) Notices of Default in Federal District Court Civil Action No. 04-10497-NMG dated September 29, 2004. I understand the Court allowed these Defaults "**upon application of the plaintiff** . . ." I attempted to first reach you by telephone and then Atty. Rosenthal, but was advised that each of you was unavailable. This letter is in follow up to the voice mail message I left for you this afternoon.

The original lawsuit filed by the plaintiff was assigned Civil Action No. 03-12560-RGS. Initially, there were issues concerning ownership of the Nashua, New Hampshire rail yard that I addressed in my letter dated April 15, 2004 to Attys. Bozza and Lafferty, formerly of your office. On April 21, 2004, a fax from your paralegal, Debra A. Cook, confirmed that the deposition of a Guilford Transportation Industries executive was scheduled for May 11, 2004 which was within the time parameters set by Judge Stearns in his March 18, 2004 Order. On May 10<sup>th</sup>, you left me a telephone message and Ms. Debbie Ellis of your office informed me by telephone that Guilford's deposition was cancelled and that the plaintiff did not intend to depose Guilford. This was confirmed in my letter dated May 18, 2004 to you.

On May 19, 2004, Atty. Rosenfeld telephoned me concerning a second complaint filed against Boston & Maine Corporation. As a consequence of that conversation, an agreement was reached whereby Atty. Rosenfeld agreed to prepare a Stipulation of Dismissal as to B&M without prejudice as set forth in my letter dated May 19, 2004. Such a Stipulation of Dismissal was never received by this office.

On June 9, 2004, I received electronic notification by email that Judge Stearns confirming that Guilford Rail Systems was no longer a party to the lawsuit in his Court.

Based on all of the foregoing, my understanding up to today was that the only defendant in

April 15, 2004

Mario Bozza, Esq.  
BBO# 052860  
63 Commercial Street  
Boston, MA 02110

Steven M. Lafferty, Esq.  
Of Counsel  
Barish Law Offices, P. C.  
1601 Cherry Street  
Three Parkway - 13<sup>th</sup> Floor  
Philadelphia, PA 19102

RE: David Deitzel v. Springfield Terminal Railway Company and Guilford Rail Systems  
U. S. F. D. C. Civil Action No.03-03-12560RGS

Dear Counsel:

This letter is in regards to your Notice of Deposition scheduled for May 12, 2004. Please be advised that I have a conflict on that date with another deposition commencing at 10:00 a.m. that was scheduled prior to my receiving your notice. I understand that the deponent in the other case is traveling to Massachusetts and is unable to rearrange his travel schedule due to a graduation ceremony for one of his children. For that reason I request that your deposition be rescheduled for Tuesday, May 11, or Thursday, May 13, 2004.

As you know from our Motion to Dismiss and conversations with this office, neither Guilford Rail Systems nor Guilford Transportation Industries owns the Nashua Yard nor conducts any railroad business. I enclose a copy of a VERIFIED NOTICE OF EXEMPTION dated February 12, 1987 consisting of ten pages and a LEASE AGREEMENT dated February 12, 1987 consisting of fourteen pages in response to your inquiries concerning ownership of the Nashua Yard.

At page 3, Paragraph 2, section (b) of the VERIFIED NOTICE OF EXEMPTION and at page 2, Part I, section 1.01 (b) of the LEASE AGREEMENT there is reference to the Boston & Maine Corporation as owning the Nashua Yard and leasing it to Springfield Terminal Railway Company at all times relevant to plaintiff's lawsuit. The enclosed documents are responsive to Schedule A to your Notice of Deposition. I am forwarding these documents to you for your review and reference and request that advise me as to whether or not their respective contents satisfy your inquiries concerning ownership of the Nashua Yard. I respectfully suggest

that both of these documents indicate that neither Guilford Rail Systems nor Guilford Transportation Industries own the Nashua Yard. In the event you require a deposition, I submit that the individuals you identified in your Notice of Deposition do not have the requisite knowledge of the specific topics you wish to inquire about. For that reason, I request and suggest that in lieu of having either Mr. Steiniger or Mr. Fink appear at deposition, that John R. Nadolny, Esq., Senior Vice President, General Counsel and Corporate Secretary for Guilford Transportation Industries appear and testify as to the matters you wish to inquire. Please contact me concerning these matters at your first opportunity.

Very truly yours,

John J. O'Brien, Jr.

cc: Springfield Terminal Railway Company

/jjob,jr

BozzaLaffertyNODdateNadolny

BARISH LAW OFFICES, P.C.  
COUNSELLORS AT LAW AND PROCTORS IN ADMIRALTY



April 21, 2004

John J. O'Brien, Jr., Esquire  
O'Brien & von Rosenvinge  
27 Mica Lane, Suite 202  
Wellesley, MA 02481

***Re: David Deitzel v Springfield Terminal Railway, et al  
Civil Docket Number 03-12560 RGS***

Dear Attorney O'Brien:

Pursuant to your letter dated April 15, 2004, plaintiff will move the deposition previously scheduled for May 12, 2004 to Tuesday, May 11, 2004 at 10:00 a.m.

In addition, based on your representations contain within your letter, plaintiff will request the deposition of John R. Nadolny, Esq., Senior Vice President, General Counsel and Corporate Secretary for Guilford Transportation Industries.

Attached hereto is the Re-Notice of Deposition Notice. Should you have any questions kindly contact me at the number listed below.

Thank you.

Sincerely,

Debra A. Cook  
Paralegal

cc: Mario Bozza, Esq.

***By Fax Only: 781-239-3360***

May 18, 2004

Rudolph V. DeGeorge, Esq.  
Barish Law Offices, P. C.  
1601 Cherry Street  
Three Parkway - 13<sup>th</sup> Floor  
Philadelphia, PA 19102

RE: David Deitzel v. Springfield Terminal Railway Company and Guilford Rail Systems  
U. S. F. D. C. Civil Action No.03-03-12560RGS

Dear Mr. DeGeorge:

This letter will confirm your telephone message to me on Monday, May 10, 2004 and my telephone conversation with Ms. Debbie Ellis from your office the same day of your cancellation of Guilford Rail Systems' [sic] deposition at which its Senior Vice President and General Counsel, Attorney John R. Nadolny, was scheduled to appear and testify on May 11, 2004. I understand, and this letter confirms, that the plaintiff does not intend to take this deposition. Accordingly and pursuant to U. S. Federal District Court Judge Richard G. Stearns' Order dated March 18, 2004, I enclose a Stipulation of Dismissal only as to Guilford Rail Systems a/k/a Guilford Transportation Industries, Inc. Kindly arrange for the appropriate individual to sign this document on behalf of the plaintiff. Please forward same to the Court and request that it be filed and docketed. Please copy me on your correspondence to the Court. In the event you are unwilling or unable to comply with the foregoing, please contact me immediately.

Very truly yours,

John J. O'Brien, Jr.

cc: Springfield Terminal Railway Company  
Mario Bozza, Esq.  
/jjob,jr  
Enclosure  
DeGeorgeSODgti



May 19, 2004

Samuel J. Rosenthal, Esq.  
Barish Law Offices, P. C.  
1601 Cherry Street  
Three Parkway - 13<sup>th</sup> Floor  
Philadelphia, PA 19102

RE: David Deitzel v. Springfield Terminal Railway Company and Guilford Rail Systems  
U. S. F. D. C. Civil Action No.03-03-12560RGS

Dear Mr. Rosenthal:

This letter will confirm our telephone conversation today concerning the second complaint filed against Boston & Maine Corporation. I understand that you will forward me a proposed Stipulation of Dismissal without prejudice as to B&M containing language to the effect that the railroad will not plead the statute of limitations in the event plaintiff seeks leave of Court to add B&M as a party at a future date. I will review your proposal and contact you with respect to any changes or revisions I may have to it.

A review of your file will reflect that on May 18, 2004, I forwarded a Stipulation of Dismissal to Atty. DeGeorge of your office to be signed and filed with the Court dismissing with prejudice plaintiff's claims against Guilford Rail Systems. Inasmuch as there is no entity named Guilford Rail Systems, I understand that the Stipulation of Dismissal as to Guilford will be signed by you or your designate and filed with the Court. Please copy me on your correspondence with the Court.

Very truly yours,

John J. O'Brien, Jr.

cc: Springfield Terminal Railway Company

Mario Bozza, Esq.

/jjob,jr

RosenthalSODb&mGTI



jjobjr@hotmail.com

Printed: Wednesday, June 9, 2004 8:54 PM

**From :** <ECFnotice@mad.uscourts.gov>  
**Sent :** Wednesday, June 9, 2004 5:29 PM  
**To :** CourtCopy@mad.uscourts.gov  
**Subject :** Activity in Case 1:03-cv-12560-RGS Deitzel v. Springfield Terminal Railway Company "Scheduling Conference"

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.

United States District Court  
District of Massachusetts

Notice of Electronic Filing

The following transaction was received from Johnson, Mary entered on 6/9/2004 at 1:29 PM EDT and filed on 5/24/2004

Case Name: Deitzel v. Springfield Terminal Railway Company  
Case Number: 1:03-cv-12560 <https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?89875>

Document Number:

Copy the URL address on the line below into the location bar of your Web browser to view the document:

Docket Text:

Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns :  
Scheduling Conference held on 5/24/2004. Atty. Bozza present for the pltf.  
Atty. O'Brien present for the def. Parties advise the Court that Guilford Rail  
Systems is no longer a defendant in this action. All discovery shall be completed  
by 1-28-05. Pltf. shall designate experts by 2-25-05; def. shall designate  
experts by 4-15-05. Expert depositions shall be completed by 5-30-05.  
Dispositive motions shall be filed by 6-15-05. If none filed by that date, the  
case will be placed on the Court's trial list. (Court Reporter None.) (Johnson,  
Mary)

The following document(s) are associated with this transaction:

1:03-cv-12560 Notice will be electronically mailed to:

John J O'Brien

jjobjr@hotmail.com

1:03-cv-12560 Notice will not be electronically mailed to:

Mario Bozza  
63 Commercial Wharf  
Boston, MA 02110

Steven M. Lafferty  
Marvin I. Barish Law Offices, P.C.  
1601 Cherry St.  
13th Floor  
Philadelphia, PA 19102